

REMARKS

In response to the restriction requirement set forth in the office action, applicants elect, with traverse, the invention of Group I, claims 1-5 (in part) and 8-15 (in part), directed to a flavor active peptide obtainable from the Maillard reaction of the dipeptide Arg-Phe with a reducing sugars. Applicants further elect fructose as a species of a reducing sugar, chocolate as a species of a flavoring, and, if necessary, a food as the species of product. New claims 17-20 are directed to the elected species, while at least claims 1-5 and 8-15 are generic to the elected invention.

It is respectfully submitted that the restriction requirement is clearly in error as being directed to different inventions rather than to different species of an invention. During the extensive studies leading to the present invention, it has now been surprisingly recognized that cocoa beans contain a variety of different dipeptides that give rise to a savory flavor not expected to occur in or be obtained from cocoa beans. Thus, the present invention relates to flavor active compounds derivable from cocoa beans and obtainable by subjecting one or more of certain specified dipeptides to a Maillard reaction with one or more of a specific listing of reducing sugars under conditions sufficient to form the flavor. The sugar and dipeptide are preferably reacted in a non-aqueous solvent, such as glycerol, propylene glycol, low water activity aqueous systems, ethanol, or fats at elevated temperatures and under conditions that allow a binding of the sugar to the dipeptide. The flavor compound obtained from the Maillard reaction may be used for the preparation of any product, wherein an aroma provided by the subjective compounds is desired, such as food products, cosmetic products or pharmaceutical products. Examples of food products are dairy products, any sort of milk products, such as e.g. milk, yogurt, pudding, ice cream or confectionery products, such as chocolate.

The various dipeptides that are recited are not classified in different areas, as noted by the classifications listed in the office action. Also, the invention claims the use of any one of a class of compounds, namely reducing sugars, which also are classified in the same areas. Thus, the various allegedly different "inventions" are nothing more than specie variations of one invention, so that the groupings listed in the office action are not independent and distinct as required for restriction. Thus, the restriction requirement should be withdrawn at least as to claims 1-5 and 8-15, and those claims should be examined together herein.

As to the features recited in claims 6 and 7, it is respectfully submitted that the uses of the flavor compounds of the invention pose no additional burden on the Examiner to

determine the patentability thereof. A proper review of the patentability of the flavor compounds would, of necessity, require that references disclosing foodstuffs or other products that contain such flavorings be reviewed. Furthermore, a review of references that disclose the flavorings or their method of preparation will also include a description of the utility of such flavorings, including the products in which such flavorings are added. Accordingly, claims 6 and 7 should also be examined at this time. In view of the above, all current claims should be examined together at this time.

Furthermore, in view of the prior art that has been cited, applicants now believe all claims to be in condition for allowance. Should the Examiner not agree with this position, a telephone or personal interview is requested to resolve any remaining issues and expedite allowance of this application.

Respectfully submitted,

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